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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,483	01/22/2002	Jared W. Stark IV	10559-559001	7484

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EXAMINER

HUISMAN, DAVID J

ART UNIT	PAPER NUMBER
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2183

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/055,483

Applicant(s)

STARK ET AL.

Examiner

David J. Huisman

Art Unit

2183

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-14 and 23-46, as set forth in the final rejection.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the attached sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Applicant argues the rejection of claim 1, on page 13 of the remarks in substance that:

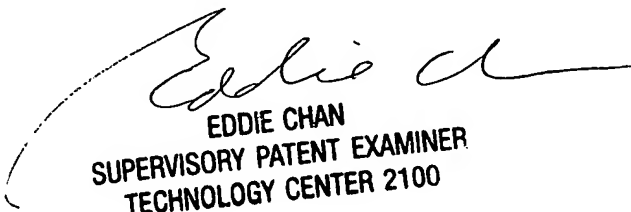
"The official action then suggests that Stark anticipates this restatement of the claimed subject matter because, looking at Fig.11 in Stark, the OR instruction causes the wakeup of the SUB instruction, and the OR instruction is confirmed as selected when the OR instruction is executed in cycle 3, which comes after the wakeup of the SUB instruction in cycle 2. But this line of reasoning overlooks the fact that the OR instruction is actually confirmed as selected prior to cycle when its tag is broadcast in cycle 2.

Stark explicitly states this in section 4.4 during the description of Fig.11b: "In cycle 2, the SUB wakes up after matching the tag broadcast by the OR." (Emphasis added.) This tag broadcast is in fact the confirmation of selection of the OR for execution, and that the OR instruction is then subsequently executed in the next cycle is irrelevant. Stark's description of Fig. makes clear that confirmation of selection of the OR instruction for execution occurs in the same cycle as the wakeup the SUB instruction."

Although this argument has been fully considered it is not persuasive for the following reasons:

The examiner believes that applicant may be reading the claim limitations too narrowly. Applicant's arguments focus on showing that the art does not teach an unexecuted instruction notifying another instruction to wakeup before selection of the unexecuted instruction is confirmed. However, applicant has not specified what type of selection is confirmed. The examiner sees at least one way to interpret "confirming selection" such that Stark anticipates applicant's claim:

1) Looking at Fig.11 of Stark, it has been established that the unexecuted OR instruction speculatively wakes up the SUB instruction in cycle 2. Applicant argues that this is after selection is confirmed for the OR instruction, which occurs in cycle 1. However, this is just one type of selection that may occur. For instance, the examiner asserts that selection occurs at each stage of the pipeline. In cycle 2, the OR instruction is selected to perform a broadcast/reg read. In cycle 3, the OR instruction is selected to be executed. Focusing in on cycle 3, it should be realized that the unexecuted OR instruction has already woken up the SUB instruction, which happened in cycle 2. And, this wakeup occurs before the OR instruction is explicitly selected for execution. Selection for execution is then confirmed when the instruction is actually executed. The fact that the instruction executes does confirm that the instruction was selected (in cycle 1 and in cycle 3) for execution.


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